

1 ALAN R. BRAYTON, ESQ., S.B. #73685
2 DAVID R. DONADIO, ESQ., S.B. #154436
3 BRAYTON♦PURCELL LLP
4 Attorneys at Law
5 222 Rush Landing Road
P.O. Box 6169
Novato, California 94948-6169
(415) 898-1555
(415) 898-1247 (Fax No.)

6 || Attorneys for Plaintiff

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NAOMI BEAURMAN-WHITE, etc., et al.) No. C08-230-EDL

Plaintiffs,

vs.

GENERAL ELECTRIC COMPANY, et
al

Defendants

No. C08-230-EDL

~~JOINT MOTION AND STIPULATION TO
STAY PROCEEDING OR, IN THE
ALTERNATIVE, TO CONTINUE CASE
MANAGEMENT DEADLINE AND
CONFERENCE, AND TO EXTEND TIME;
[PROPOSED] ORDER TO STAY;
[PROPOSED ALTERNATIVE] ORDER
TO CONTINUE~~

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed January 14, 2008, for the following good cause:

22 On February 19, 2008, Defendant GENERAL ELECTRIC COMPANY filed a Notice to
23 Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District
24 of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District.
25 Defendant GENERAL ELECTRIC COMPANY has faxed counsel copy of a cover letter
26 showing that this notice was mailed to the Judicial Panel on Multidistrict Litigation (“JPML”)
27 pursuant to 28 U.S.C. § 1407, said notice to the JPML from counsel being necessary to initiate
28 the transfer process.

1 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
 2 cases pending in the federal courts to the United States District Court for the Eastern District of
 3 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. That order also
 4 applies to “tag-along actions,” or actions involving common questions of fact filed after January
 5 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
 6 MDL 875, for coordinated pretrial proceedings.

7 The JPML has held that a district court has the authority to stay pending a transfer order.
 8 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
 9 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
 10 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
 11 unnecessary interruption or delay.”)

12 The undersigned parties agree that it is likely that the JPML will transfer this matter to
 13 the Eastern District of Pennsylvania.

14 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
 15 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
 16 transferred, pursuant to JPML Rule 13(b).

17 It is likely the dates set forth in the *Case Management Scheduling Order* including the
 18 deadlines imposed by Federal Rules of Civil Procedure 26, will come to pass **before** the Clerk of
 19 the JPML acts.

20 In addition, Defendant ELECTRIC BOAT CORPORATION has not filed an answer.

21 The parties make this Motion on the grounds that a stay of this action would (a) promote
 22 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
 23 parties.

24 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to
 25 and respectfully request the Court VACATE its *Case Management Scheduling Order* and that
 26 the Court issue an Order STAYING this action pending the outcome of the MDL Panel’s
 27 decision on the merits of the transfer.

28 ///

In the alternative, the parties hereby STIPULATE to and respectfully request that the dates set forth in the *Case Management Scheduling Order* be vacated and continued pending the outcome of the JPML's decision on the merits of the transfer. Specifically, these deadlines in this matter include the **April 1, 2008** Rule 26 deadline to meet and confer, and file Joint ADR Certification, the **April 15, 2008** Deadline to complete Initial Disclosures, the **April 15, 2008** deadline to file the Joint Case Management Statement and the Case Management Conference currently set for **April 22, 2008**.

8 | Dated: February 25, 2008

BRAYTON PURCELL LLP

/s/ David R. Donadio

10 By: _____
11 David R. Donadio
Attorneys for Plaintiffs

12 Dated: February 25, 2008 SEDGWICK, DETERT, MORAN & ARNOLD, LLP

/s/ Derek S. Johnson

15 By: _____
16 Derek S. Johnson
Attorneys for Defendant
GENERAL ELECTRIC COMPANY

By: _____
Derek S. Johnson
Attorneys for Defendant
GENERAL ELECTRIC COMPANY

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~~[PROPOSED]~~ ORDER TO STAY

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed January 14, 2008, are hereby VACATED and that this action is STAYED pending the outcome of the JPML's decision on the merits of the transfer. The parties shall file a joint status report no later than June 27, 2008.

Dated: February 27, 2008

[PROPOSED ALTERNATIVE] ORDER TO CONTINUE

11 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*
12 *Management Scheduling Order* filed January 14, 2008, are hereby VACATED. IT IS
13 FURTHER ORDERED that the following case management deadlines are continued as follows:

- 14 1. Last day to meet and confer re initial disclosures, early settlement, ADR process
15 selection, and discovery plan is [set for a date after July 1, 2008 to wit:] _____,
16 2008;

17 2. Last day to file Joint ADR Certification with Stipulation to ADR process or
18 Notice of Need for ADR Phone Conference is [set for a date after July 1, 2008 to wit:]
19 _____, 2008;

20 3. Last day to complete initial disclosures or state objection to Rule 26(f) Report,
21 file/serve Case Management Statement and file/serve Rule 26(f) Report is [set for a date after
22 July 1, 2008 to wit:] _____, 2008; and,

23 4. The Case Management Conference is [set for a date after July 1, 2008 to wit:]
24 _____, 2008; at 10:00 am, Courtroom "E", 15th Floor, 450 Golden Gate Avenue,
25 San Francisco, California.

26 || Dated: _____

Elizabeth D. Laporte
United States Magistrate Judge